



REPORT OF ACTIVITIES FUNDED BY THE STAFF ACCOUNT OF THE SOLID WASTE MANAGEMENT FUND

OCTOBER 1, 2007 – SEPTEMBER 30, 2008

Jennifer M. Granholm, Governor
Steven E. Chester, Director

Prepared By:
Michigan Department of Environmental Quality
Waste and Hazardous Materials Division
Storage Tank and Solid Waste Section
P.O. Box 30241
Lansing, Michigan 48909-7741
517-335-2690

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Subsection 11550(6) of Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), states in part:

By March 1 annually, the department shall prepare and submit to the governor, the legislature, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the activities of the previous fiscal year funded by the staff account of the solid waste management fund....

Following is the information as outlined in Subsections 11550(6)(a) through (i):

(a) Full-Time Equivalent (FTE) Positions

Solid waste activities carried out by the Department of Environmental Quality (DEQ), Waste and Hazardous Materials Division (WHMD), in fiscal year (FY) 2008, were conducted by 40 FTE positions. (Five of the FTE positions were funded by a \$500,000.00 FY 2008 General Fund appropriation in lieu of an FY 2008 solid waste surcharge fee increase.) These positions included permitting, licensing, compliance, and enforcement staff, such as geologists, engineers, and environmental quality analysts; district supervisors; WHMD management; and administrative support staff.

(b) Construction Permit Application Decisions

Zero construction permit applications were pending at the beginning of FY 2008.

- (1) During FY 2008, 13 applications for permits to establish or expand solid waste disposal facilities were received. Of these, three applications were determined to be administratively incomplete and were returned to the applicants. A total of ten applications were determined to be administratively complete.
- (2) Six of the ten administratively complete applications were approved, and no applicants withdrew an application. There were no applications denied. At the end of FY 2008, there were four applications pending a decision.
- (3) All of the applications that were determined to be administratively complete were decided upon within 120 days of being determined to be administratively complete, as required by Section 11511 of Part 115.¹

¹ The processing deadline is now specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for a construction permit under Section 11509 by the 120-day processing deadline.

CONSTRUCTION PERMIT APPLICATIONS	
Pending Applications as of October 1, 2007	0
Number of New Applications Received	13
Number of Applications Administratively Incomplete	3
Number of Applications Withdrawn	0
Number of Permits Issued	6
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2008	4
Percent of Decisions Made on Time	100%

(c) Operating License Applications Received Under Section 11512 of Part 115

At the beginning of FY 2008, four operating license applications were pending a decision.

- (1) During FY 2008, 19 applications for new or renewal licenses to operate solid waste disposal facilities were received.
- (2) A total of 17 applications were determined to be administratively complete. There were two applications determined to be administratively incomplete and returned to the applicant. A total of 15 applications were approved, one applicant withdrew their application, and no license applications were denied. At the end of FY 2008, there were five applications pending a decision.
- (3) All of the license applications that were determined to be administratively complete in FY 2008 were decided upon within 90 days of being determined to be administratively complete, as required by Section 11516 of Part 115.²

OPERATING LICENSE APPLICATIONS	
Pending Applications as of October 1, 2007	4
Number of New Applications Received	19
Number of Applications Administratively Incomplete	2
Number of Applications Withdrawn	1
Number of Licenses Issued	15
Number of Applications Denied	0
Number of Pending Applications as of September 30, 2008	5
Percent of Decisions Made on Time	100%

² The processing deadline is now specified in Subsection 1307(1) of Part 13, Permits, of the NREPA, which requires that the DEQ approve or deny an application for an operating license under Section 11512 by the 90-day processing deadline.

d) Number of Inspections of Licensed Disposal Areas as Required by Section 11519 of Part 115

During FY 2008, 509 inspections of licensed solid waste facilities were conducted.³

(e) Number of Letters of Warning (LOWs) Sent to Licensed Disposal Areas

During FY 2008, 75 LOWs were sent to licensed disposal areas.⁴

(f) Number of Contested Case Hearings Initiated in FY 2008: 0

Number of Contested Case Hearings Completed in FY 2008: 0

Number of Civil Actions Initiated in FY 2008: 1

Number of Civil Actions Completed in FY 2008: 1

Number of Voluntary Consent Orders and Administrative Orders Entered or Issued in FY 2008: Three voluntary consent orders were entered, and one unilateral administrative order was issued.

Amount of Fines and Penalties Collected in FY 2008 Through Such Actions or Orders: \$47,656.00

g) Description of Corrective Actions Required by Enforcement Actions

(1) Central Sanitary Landfill, Inc.

On October 25, 2007, the DEQ entered into a Modification of Consent Order (Modification) with Central Sanitary Landfill, Inc. (Central Sanitary) regarding its landfill in Montcalm County. The original Consent Order (Order) was entered on July 27, 2006, to resolve alleged violations of Part 115. The alleged violations were based on inspections and information from Central Sanitary personnel that

³ A total of 784 compliance inspections were conducted in FY 2008. However, 509 are reported here because Subsection 11550(6)(e) requests the number of inspections at licensed disposal areas. The remaining 275 inspections were conducted either at sites of illegal operations or at Type B transfer facilities that are authorized to operate by the statute, but are not required to have an operating license.

⁴ A total of 117 LOWs were issued in FY 2008. However, 75 are reported here because Subsection 11550(6)(e) requests the number of LOWs sent to licensed disposal areas. The remaining 42 LOWs were sent either to owners or operators of disposal areas that are not required to have an operating license or to owners or operators of sites determined to be illegal operations. An example of a legal solid waste disposal area that does not require a license to operate is a Type B solid waste transfer facility. Although these disposal areas are not licensed, they are inspected for compliance with the operational requirements of Part 115 and the Part 115 Rules. The number of LOWs sent in FY 2008 may encompass some inspections made in the last quarter of FY 2007.

indicated that the Phase VI-A11 cell at the landfill was not built in compliance with the approved plans as required by Part 115 and, as a result, did not meet the requirement that the secondary collection system be designed and operated as a leak detection system (LDS). The Order required Central Sanitary to submit a plan to address the need for an LDS and, once the plan is approved by the DEQ, to implement the plan.

While attempting to meet the requirements of the Order, Central Sanitary determined, and the DEQ agreed, that undertaking the corrective actions detailed in the Order would be dangerous to landfill workers and/or contractors. Based on that determination, the Modification provides for alternative monitoring using groundwater monitoring wells to effectively monitor the Phase VI-A11 cell for any potential release in the absence of a properly installed LDS. The Modification required a revised hydrogeological monitoring plan, including the installation of additional groundwater monitoring wells, an appropriate statistical analysis of groundwater monitoring data, and a contingency plan that details the actions to be taken by Central Sanitary in the event future monitoring results confirm a release from the Phase VI-A11 cell.

(2) DEQ v Richfield Landfill, Inc., 30th Judicial Circuit Court, Number 08-751-CE

On May 30, 2008, the Department of Attorney General filed an action on behalf of the DEQ in the Ingham County Circuit Court (Court) against Richfield Landfill, Inc. (Richfield). On the same day, a Consent Decree (Decree) was entered by the Court to resolve certain compliance issues at Richfield's Type II sanitary landfill located in Richfield Township, Genesee County. This Decree originated, in part, as the result of Richfield's failure to submit a Remedial Action Plan (RAP) that complies with Part 115 and Part 201, Environmental Remediation, of the NREPA. Specifically, Richfield could not provide a financial assurance mechanism that was compliant with Parts 115 and 201 and the Part 115 and Part 201 Rules. The RAP was required based on the results of a hydrogeological investigation conducted pursuant to a previous Administrative Consent Order, WMD Order Number 115-05-31-09-01, which found contamination emanating from the landfill.

The Decree required Richfield to:

- (a) Perform the response activities set forth in a Corrective Action Plan (CAP) approved by the DEQ on May 27, 2008, in accordance with the schedule contained therein. The approved CAP provides for all of the response activities that would be necessary to undertake an approved RAP under Part 201 and the Part 201 Rules, with the exception of a fully-compliant financial assurance mechanism;

- (b) A financial assurance mechanism and requirements for semiannual increases in the amount of the financial assurance until the requirements of Parts 115 and 201 are fully met;
- (c) A Letter of Credit within 10 days of entry of the Decree in the amount of \$328,113.67 to cover the underfunded Perpetual Care Fund (PCF) account for the landfill;
- (d) Monthly payments of \$25,000.00 to the PCF account for 48 months for a minimum of \$300,000.00 per year until the PCF has reached the maximum required fund amount as defined in Section 11525;
- (e) Certain modifications of Cell 2 of Richfield's landfill detailed in the Decree;
- (f) A well abandonment plan and schedule for implementation approved by the DEQ;
- (g) A payment of \$15,000.00 to resolve the State's claim for civil fines for past violations of Section 11525(2) of Part 115; and
- (h) A payment of \$12,656.00 to resolve the State's claim for past surveillance and enforcement costs.

Richfield is also required to provide the DEQ with the results of all environmental sampling and other analytical data generated in the performance of any requirements under this Decree. These results shall be included in semiannual progress reports submitted by January 15 and July 15 of each calendar year until the CAP is fully implemented.

(3) Eco-Tech Environmental

On October 31, 2007, the DEQ issued a Notice of Violation (NOV), Order to Cease and Desist, and Order to Remediate and Close (Order) to Mr. Warren Bowshot and Mr. Clifford Dobben, individuals who operated a Type B transfer facility in Baldwin, Webber Township, Lake County, under the name of Eco-Tech Environmental. Although Type B solid waste transfer facilities are not subject to the construction permit and operating license requirements of Part 115, such facilities are required to comply with the operating requirements of Part 115 and the Part 115 Rules. Numerous inspections revealed that the transfer facility was operated in violation of Part 115 and the Part 115 Rules, including, but not limited to, storing solid waste on the ground outside of containers, failing to have a sufficient number of containers for the solid waste at the facility, open burning and open dumping of solid waste, failing to prevent the harborage and production of insects and rodents, failing to remove the solid waste from the facility at least once per week, and failing to keep the transfer facility clean and free of litter. The

individuals involved had previously been offered a proposed administrative consent order with a schedule of remedial actions to return the facility to compliance, but they failed to respond to the DEQ's offer. Based on the DEQ's Order, the individuals ceased operating the transfer facility and removed the solid waste from the site.

(4) Landfill Management Co.

On August 1, 2008, the DEQ entered into an Administrative Consent Order (Order) with Landfill Management Co. (LMC) to resolve violations of Part 115 and the Part 115 Rules at the Orchard Hill Sanitary Landfill, located in Watervliet, Berrien County. In an LOW issued on June 26, 2008, the DEQ alleged that the construction certification for Cell 6A certified that the landfill cell was constructed in accordance with the Part 115 Rules and the approved engineering plans, specifications, and construction quality assurance plan when construction records showed that it was not. The Order required LMC to submit a revised certification that identified all of the deviations from the requirements and provided an explanation and justification of why each of the deviations would not impact the integrity and performance of the landfill cell. The Order required payment of \$20,000.00 in settlement of the DEQ's claim for a civil fine. LMC submitted the revised certification on August 5, 2008, and the DEQ approved it on August 7, 2008.

(5) Southeast Berrien County Landfill Authority

On August 8, 2008, after a series of negotiations, which included the receipt of new information regarding the groundwater contamination from the Southeast Berrien County Landfill (Landfill), the DEQ entered into a Second Amendment of Consent Order (Second Amendment) with the Southeast Berrien County Landfill Authority (SEBCLA). The DEQ and the SEBCLA had entered into a Consent Order (Consent Order) on July 19, 2004, to resolve alleged violations of Part 115 and Part 31, Water Resources Protection, of the NREPA. The compliance program of the Consent Order included a schedule for submission of a remedial investigation, feasibility study, and revised RAP to address groundwater contamination emanating from the Landfill. On April 6, 2006, an Amendment of Consent Order was executed to revise the deadlines of the compliance program.

The SEBCLA submitted a revised RAP to the DEQ on October 10, 2007. The DEQ denied the revised RAP on April 7, 2008, and advised the SEBCLA that, under the terms and conditions of the Consent Order, it must resubmit a revised RAP that is in full compliance with Part 115 and Part 201 within 30 days of the April 7, 2008, denial or be subject to the stipulated penalty provisions of the Order. The April 7, 2008, denial also offered the SEBCLA the alternative of requesting an extension of the deadline to resubmit a revised RAP. The SEBCLA requested an extension of the deadline. The Second Amendment authorized a revised deadline to resubmit a revised RAP and, in the meantime,

required the SEBCLA to implement certain interim response activities such as the installation and operation of an on-site groundwater recovery system to ensure source control of contamination in both the shallow and deep aquifers at the Landfill. The deadline for the SEBCLA to submit a revised RAP in compliance with Part 115 and Part 201 is July 9, 2009.

(h) Number of Solid Waste Complaints Received, Investigated, Resolved, and Not Resolved by the DEQ

During FY 2008, the DEQ received 255 solid waste complaints, 138 of which were investigated via inspections. The remaining 117 complaints were resolved by contact with the parties involved, were appropriately referred to other DEQ program divisions or other agencies, or are still under investigation

(i) Amount of Revenue Remaining in the Staff Account at the End of FY 2008

The amount of revenue in the Staff Account at the end of FY 2008 was \$2,552,000.00.